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MG RESTAURANTS, INC.

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 MG RESTAURANTS, INC., d/b/a Mixt, a  
California corporation,

12 Plaintiff,

13 v.

14 PICNIC DELIVERY LLC, d/b/a Picnic and  
15 trypicnic.com, a Delaware limited liability  
company; RESTAURANT TECHNOLOGY  
16 SOLUTIONS LLC, d/b/a Otter and  
tryotter.com, a Delaware limited liability  
17 corporation; WIRED UP SOLUTIONS, LLC,  
a Delaware limited liability company,  
18 inclusive,

19 Defendants.

Case No. 3:24-cv-08794-DMR

**STIPULATION AND ~~PROPOSED~~  
ORDER TO SUBMIT ACTION TO  
ARBITRATION AND STAY  
PROCEEDINGS**

The Honorable Donna M. Ryu

Complaint Filed: December 5, 2024  
Trial Date: None

1 Plaintiff MG Restaurants, Inc., d/b/a Mixt (“Plaintiff” or “Mixt”) and defendants Picnic  
 2 Delivery LLC, Restaurant Technology Solutions, LLC, and Wired Up Solutions LLC  
 3 (“Defendants”; collectively with Plaintiff the “Parties”), by and through their respective counsel of  
 4 record, hereby submit this stipulation to stay this action pending arbitration based on the following  
 5 facts:

6 1. On December 5, 2024, Mixt filed its Complaint in the above-captioned matter for  
 7 1) trademark infringement under 15 U.S.C. § 1114; 2) false designation of origin and unfair  
 8 competition under 15 U.S.C. § 1125(a); 3) false advertising under 15 U.S.C. § 1125(a); 4)  
 9 trademark infringement and unfair competition under California common law; 5) unfair  
 10 competition under California Business & Professions Code §§ 17200, *et seq.* (“UCL”); 6) false  
 11 advertising under California Business & Professions Code §§ 17500, *et seq.* (“FAL”); and 7)  
 12 breach of contract (the “Action”). *See* ECF No. 1.

13 2. On January 14, 2025, Defendants moved to dismiss this Action and compel  
 14 arbitration in accordance with the Terms of Use posted on Mixt’s website (the “Terms”). *See* ECF  
 15 No. 10.

16 3. All Parties have consented to Magistrate Judge Donna M. Ryu conducting all  
 17 further proceedings in this Action. *See* ECF Nos. 13-14.

18 4. After meeting and conferring, Plaintiff has agreed to submit its claims and disputes  
 19 in this Action to binding arbitration pursuant to the Terms.

20 5. The Parties further agree, subject to the approval of the Court, to stay proceedings  
 21 in this Action, pending the outcome of the arbitration, pursuant to 9 U.S.C. section 3.

22 NOW, THEREFORE, it is hereby stipulated and agreed by the Parties that:

23 a. Plaintiff shall submit its claims and dispute to binding arbitration in accordance  
 24 with the Terms;

25 b. Defendants’ pending Motion to Dismiss (ECF No. 10) set for hearing on April 10,  
 26 2025, at 1:00 P.M. in Courtroom 4 is therefore moot and should be taken off calendar;

1 c. The Action shall be stayed in accordance with 9 U.S.C. section 3 pending  
2 resolution of the arbitration;

3 d. Plaintiff will file for arbitration within 30 days of the Court staying this Action;

4 e. The Parties shall file a Joint Status Report within ten days following the issuance of  
5 an order by the arbitrator;

6 f. Should the Arbitrator determine any matter to be not arbitrable, the Parties will  
7 return to this Court to resolve the same.

8 IT IS SO STIPULATED.

9 Dated: January 28, 2025

BLAXTER | BLACKMAN LLP

10 By /s/ Brian R. Blackman  
11 J.T. WELLS BLAXTER  
12 BRIAN R. BLACKMAN  
Attorneys for Plaintiff MG RESTAURANTS, INC.,  
d/b/a MIXT

13 Dated: January 28, 2025

14 By /s/ Anthony J. DiBenedetto  
15 ANTHONY J. DIBENEDETTO  
16 JAMIE R. NAZEMI TABRIZI  
Attorneys for Defendants PICNIC DELIVERY LLC,  
17 RESTAURANT TECHNOLOGY SOLUTIONS,  
LLC, and WIRED UP SOLUTIONS LLC

18  
19 **ATTESTATION**

20 I, Brian R. Blackman, am the ECF User whose identification and password are being used  
21 to file this STIPULATION AND [PROPOSED] ORDER TO SUBMIT ACTION TO  
22 ARBITRATION AND STAY PROCEEDINGS. In compliance with Civil L.R. 5-1(i)(3), I attest  
23 that Anthony J. DiBenedetto has concurred in this filing.

24 /s/ Brian R. Blackman  
25 BRIAN R. BLACKMAN

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27  
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**~~PROPOSED~~ ORDER**

The Court, having reviewed the Parties' stipulation, and good cause appearing, HEREBY ORDERS THAT:

1. Plaintiff shall submit its claims and disputes to binding arbitration in accordance with Mixt's Terms of Use;
2. Defendants' pending Motion to Dismiss is therefore moot and the hearing set for April 10, 2025, at 1:00 P.M. in Courtroom 4 is vacated;
3. The Court stays all proceedings in this Action pending resolution of the arbitration;
4. Plaintiff will file for arbitration within 30 days of the entry of this Order;
5. The Parties shall file a Joint Status Report within ten days following the issuance of an order by the arbitrator;
6. Should the Arbitrator determine any matter to be not arbitrable, the Parties will return to this Court to resolve the same.

IT IS SO ORDERED.

DATE: January 28, 2025



THE HONORABLE DONNA M. RYU  
Chief Magistrate Judge